

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.142 of 2023

Shri Swapan Ch. Deb Roy

.....Appellant(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Appellant(s) : Mr. S. Deb, Sr. Advocate,
Mr. S. Datta, Advocate.

For Respondent(s) : Mr. D. Sarma, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

06/02/2024

Heard Mr. S. Deb, learned senior counsel for the appellant and Mr. D. Sarma, learned Additional Government Advocate for the respondents-State.

2. By the impugned order dated 18.10.2023, the learned Writ Court disposed of the writ petition with a direction to the respondents to conclude the disciplinary proceeding within 4(four) months. Petitioner/appellant herein had approached the Writ Court with the following prayer:

"I. Issue a rule calling upon the respondents and each one of them to send unto this Hon'ble Court the records relating to this case.

II. Issue rule calling upon the respondents and each one of them to show cause as to why a writ of mandamus and or in the nature thereof shall not be issued mandating/directing the respondents and each one of them to treat the memorandum dated 21st September, 2012 to have come into inoperative and non-existent.

III. Issue a rule calling upon the respondents and each one of them to show cause as to why a writ of mandamus and or in the nature thereof shall not be issued directing/mandating the respondents and each one of them to treat your humble petitioner as discharged of the articles of charges vide Memorandum dated 21st September, 2012 (Annexure-1 supra).

IV. Issue a rule calling upon the respondents and each one of them to show cause as to why a writ of certiorari and or in the nature thereof shall not be issued quashing/ setting aside the proceeding under memorandum dated 21st September 2012 (Annexure-1 supra)

V. Issue a rule calling upon the respondents and each one of them to show cause as to why a writ of prohibition and or in the nature thereof shall not be issued prohibiting/restraining the respondents and each one of them from proceeding continuance of proceedings under Memo dated 21st September, 2012.

VI. Issue a Rule of mandamus mandating/directing the respondents and each one of them to arrange the payment of pension and other retiral benefits forthwith.

VII. After hearing the parties be pleased to make the rule absolute in terms of 1,2 and above.”

He was proceeded in a criminal case under Section 409 of IPC under FIR No.86 of 2012 for the following charge:

“8] After taking into consideration the submissions of the Ld. Counsels of both sides and on perusal of the record, following points is considered for determination:-

POINT FOR DETERMINATION

Whether during the year 2011-12 at any time at Manirampur ADC village under Hrishyamukh R.D block accused being a public servant committed criminal breach of trust by withdrawing Rs.3,41,780/- from the joint Account of TGB HRM branch no.15242?”

3. He was a Panchayat Secretary in Manirampur village committee under Hrishyamukh R.D block at the relevant point of time. A departmental proceeding was initiated against him vide memorandum of charges dated 21.09.2012 by the Directorate of Panchayats, Government of Tripura which *inter alia* alleged five articles of charges under Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct was set out in the statement of articles of charge at Annexure-I. The statement of imputation of misconduct in support of each article of charge was enclosed as Annexure-II. A list of documents and a list of witnesses by whom the articles of charges were proposed to be sustained were enclosed as Annexure-III & IV.

4. The imputation of mis-conduct as contained in the 5 Articles of charges are being extracted hereunder for proper appreciation of the issue at hand:

STATEMENT OF ARTICLES OF CHARGES FRAMED AGAISNT SRI SWAPAN CHANDRA DEBROY, RPS, PANCHAYAT SECRETARY MANIRAMPUR VILLAGE COMMITTEE HRISHYAMUKH RD BLOCK, SOUTH TRIPURA DISTRICT.

Article-I

Sri Swapan Chandra Deb Roy while functioning as In-charge RPS (Panchayat Secretary) at Manirampur Village Committee, Hrishyamukh RD Block, the Block

Development Officer, Hrishyamukh RD Block reported vide his letter No.F.1(1-A)BDO/HRM/CONFIDENTIAL/2011-12/238, dated 04-05-12, that the Branch Manager, Tripura Gramin Bank, has intimated vide his letter No. TGB/HRM/BDO/194/2012/HD Dated 04-05-12, that Sri Swapan Ch. Deb Roy, RPS(Panchayat Seceretary), Manirampur Village Committee, submitted a Cheque bearing No.884296, dated 11-04-2012, to the TGB Hrishyamukh Branch for withdrawal an amount of Rs.1,45,966/- only with scroll for payment of labourer wages against the work order No.-16, dated 25-12-2011, and 17(A) dated 25-11-2011, but the said cheque bounded due to shortage of fund in the Bank Pass Book which is most irregular as a Government employee and he has submitted the said cheque for an amount of Rs. 1,45,966/- bearing No.884296, dated 11-04-2012 with an ill motive to misappropriation of Govt. money at his own interest which is a gross offense on the part of a Govt. employee and thus he is liable for disciplinary action. Accordingly, said Sri Deb Roy, RPS(P/S) was placed under suspension vide this Directorate Order No. 3776-79, dated 18-05-12.

By doing so said Sri Swapan Ch. Deb Roy, RPS(Panchayat Secretary), Hrishyamukh RD Block has failed to (i) maintain absolute integrity (ii) maintain devotion to duty and made himself liable for the charge. Thus said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has violated the provision of Rule-3 of the Tripura Civil Services (Conduct) rules, 1988 and has made himself liable for disciplinary action under CCS(CC&A) Rule, 1965.

Article-II

The Block Development Officer, Hrishyamukh RD Block formed a team with Sri Sankar Debnath, AAO, Sri Amarchand Biswas, Panchayat Extension Officer & Manoranjan Debnath, Panchayat Extension Officer and Rajesh Debnath, J/E for the inquiry of the Accounts of the Manirampur ADC Village Committee under Hrishyamukh RD Block vide his No. 1(6)/BDO/HRM/ESTT/148, dated 23-04-2012. The inquiry team inquired official records/Register and other related records etc. of Manirampur village committee office and reported on 04-05-12 that Manirampur Village committee has received total amount of Rs.24,44,560/- against 6 nos. sanction Memo from the Programme Officer, (BDO, Hrishyamukh) vide sanction memo No.(i)No.F.21(5)/BDO/HRM/MREGA/BUDGET/2011-12/145 dated 20-4-11, Rs.3,44,560/- (ii) No.F.21(5)/BDO/HRM/MREGA /BUDGET/ 2011-12/715, dated 23-06-11, Rs.7,00,000/- (iii) No.F.21(5)/BDO/HRM/MREGA /BUDGET/2011-12/1456 dated 19-08-11, Rs.3,00,000/- (iv) No.F.21(5)/BDO/HRM/MREGA/ BUDGET /2011-12/2084 dated 22-10-11, Rs.7,00,000/- (v) No.F.21(5)/BDO/ HRM/ MREGA / BUDGET/2011-12/2787 DATED 08-12-11, Rs.3,00,000/- & (vi) No.F.21(5)/BDO/HRM /MREGA/BUDGET /2011-12/3225 dated 17-01-12 Rs.1,00,000/- for implementation of development work of MGNREGA Scheme against the different project for the year 2011-12. Out of said amount, said Sri Swapan Ch. Deb Roy, RPS(Panchayat Secretary), Manirampur Village Committee has been executed 18 no. projects/works involving Rs.22,82,812/- during the year 2011-12, but payment has been made for an amount of Rs.20,60,780/- by Bank Scroll. Said Sri Swapan Chandra Dey Roy, RPS (P/S) also admitted and giving in writing statement that total 18 nos development works executed by him during the year 2011-2012 at Manirampur Village Committee project value is Rs.22,82,812/- payment made by scroll against work is Rs.20,60,780/- total payment due against following 4 no. work is Rs.2,22,032/- viz (i) payment due Rs.88,574/- against work for creation of Bamboo plantation for 30 Nos. patta holder beneficiaries, (ii) payment due Rs.56,758/- against work for creation of Field Levelling of Manirampur community Hall under MRP ADC Village Group-ii (iii) Payment due Rs.76700/- against work for irrigation of 2 nos. channel & (iv) payment due Rs.34456/- against work for Land Reclamation the land of Gobinda Tripura, S/O Samba Sing Tripura. Total payment due Rs.2,22,032/- (88574+56758+76700 & Rs.34456). After making payment, the balance amount of Bank Pass Book should have to be Rs.3,83,780/- as on 09-04-12, but Bank pass book reflect NIL balance for development works. The inspection team also reported that said Sri Swapan ch. Deb Roy, RPS (Panchayat Secretary), Manirampur Village Committee has drawn in cash Rs.3,41,780/- time to time by different self drawl cheque without work order sanction memo or scroll for payment of labourer wages and vide following cheque No. (i) Cheque No.156360 dated 07-07-11, Rs. 75000/-, (ii) No.Rs.156369 dated 16-09-11 Rs.25000/- (iii) 156372 dated 10-10-11 Rs.50,000/-, (iv) No.884277 dated 10-11-11 Rs.. 25000/- (v) No.884279 dated 26-11-11 Rs.20,000/- , (vi) No.884282 dated 14-12-11 Rs.50,000/- , (vii) No. 884284 dated 23-12-11 Rs.42000/-, (viii) No. 884285 dated 28-12-11, Rs.25,000/-, (ix) No.884288 dated 13-11-12, Rs.20,000/- & (x) No.884292 dated 16-03-12 Rs.10,000/-. The said Rs.3,42,000/- from Joint Account No. 15242 of MGNREGA Scheme of Manirampur Village Committee during the year 2011-12.

Sri Deb Roy, RPS(P/S) also withdrawn by submitting self drawl cheque remaining balance amount of Rs.42,000/- showing as payment by scroll against 2 nos Development Works falsely without work order, but during inquiry, against said amount of Rs.42,000/- Sri Deb Roy has failed to produce work order for said 2 no. development works, Master Roll, Bank Scroll, etc. and also did not submitted any adjustment against said 2 no. works. Said Sri Swapan ch. Deb Roy, RPS(P/S) Manirampur as implementing Officer were committed irregularities without maintaining the guideline under NREGA Scheme by withdrawing the said amount as cash by submitting self drawl cheque and showing payment by scroll against false labourers. Showing false name of labourers, & self drawl cheque against Development works of NREGA Scheme, said Sri Swapan ch. Deb Roy, In-charge RPS Panchayat Secretary, Manirampur Village committee Hrishyamukh RD Block was withdrawn the amount of Rs.3,41,780/- + Rs.42,000/- total 3,83,780/-, by keeping in dark to the real labourers as well as beneficiaries with an ill motive showing false name of labourers scroll & by self drawl cheque to misappropriation of Govt. money at his own interest which is a gross offense on the part of a Govt. employee and thus he is liable for the charge of disciplinary action.

By doing so, said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has failed to (i) maintain absolute integrity (ii) maintain devotion to duty and made himself liable for the charge. Thus, said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has violated the provision of Rule-3 of the Tripura Civil Services (Conduct) Rules, 1988 and has made himself liable for disciplinary action under CCS (CC&A) Rules, 1965.

6. Article-III of the charges *inter alia* alleged as under:

Article No.III

The inquiry team also reported that during the year 2011-12, as per bank pass book of Manirampara Village Committee, has credited an amount of Rs.12,315/- as Bank Interest. But Bank Pass Book shows that total balance amount is Rs.2430/-. Said Sri Deb Roy, RPS, has also withdrawn in interest money of Rs.9885/- from the Bank Account Pass Book for his personal affairs i.e. for misappropriation of Govt. money intentionally, which amount is the property of Village Committee, and the said amount is to be utilized for the purpose of development works of Village Committee area/office. But Sri Swapan Ch Deb Roy, has withdrawn the interest money of amount of Rs.9885/- from Bank for misappropriate the Govt. money for his personal purpose depriving the Village Committee area or office which is not at all desirable on the part of a Govt. employee. Which is most irregularities & gross offense on the part of a Govt. employee and thus he is liable for the charge of disciplinary action.

By doing so said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has failed to (i) maintain absolute integrity (ii) maintain devotion to duty and made himself liable for the charge. Thus said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has violated the provision of Rule-3 of the Tripura Civil Services (Conduct) Rules, 1988 and has made himself liable for disciplinary action under CCS (CC&A) Rules, 1965.

Similarly Article No.IV & Article No.V of the charges alleged as under:

Article No. IV

Sri Swapan Chandra Deb Roy while functioning as In-charge RPS (Panchayat Secretary) at Manirampur Village Committee Hrishyamukh RD Block, Manirampur Village Committee received total Rs.24,44,560/- under MNREGA fund. Bank interest earned Rs.12,315/-. Payment made by Sri Swapan Debroy Rs.20,60,780/-. Balance amount to be Rs.3,96,095/-, as per Bank Account Pass Book No.15242 balance amount is Rs.2,430/-, thus it is proved that Sri Swapan Chandra Deb Roy while functioning as In-charge RPS (Panchayat Secretary) at Manirampur Village Committee Hrishyamukh RD Block, has misappropriated total amount of Rs.3,93,665/- with an ill motive to misappropriation of Govt. money at his own interest which is a gross offense on the part of a Govt. employee and thus he is liable for the charge of disciplinary action.

By doing so said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has failed to (i) maintain absolute integrity (ii) maintain devotion to duty and made himself liable for the charge. Thus said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has violated the provision of Rule-3 of the Tripura Civil Services (Conduct) Rules, 1988 and has made himself liable for disciplinary action under CCS (CC&A) Rules, 1965.

Article No. V

Sri Dulal Nama, Present RPS, (P/S) Manirampur Village Committee under Hrishyamukh RD Block has given written statement 10.04.2012, on which the Pradhan, Manirampur Village Committee assigned, that he has joined at Manirampur Village Committee on 09.04.2012 as per order of the BDO, Hrishyamukh RD Block, vide Memo No.F.4(2)/BDO/HRM/Panch/2011-12/3984, dated 22.03.2012. But he did not able to taken over the charge from his reliever Sri Swapan Ch. Deb Roy, RPS (P/S). All papers/documents of Manirampur Village Committee under kept in the custody of said Sri Deb Roy, RPS, (P/S) before issue suspension order. And after receiving the suspension order, in place to handed over the charge of Manirampur Village Committee to his predecessor, Sri Deb Roy taken over all the papers/Documents etc. of Village committee and Sri Dulal Nama, Present RPS, (P/S) has faced trouble & failed to trace out the relevant papers/documents from the period from 01.04.2011 to 31.03.2012. Said Sri Deb Roy RPS, (P/S) has made a gross irregularities without handing over the charge of Manirampur Village Committee to his predecessor, which is not desirable. By doing so Village Committee office as well as villagers of Manirampur is facing hard problem which is most irregularities & gross offense on the part of a Govt. employee and thus he is liable for the charge of disciplinary action.

By doing so said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has failed to (i) maintain absolute integrity (ii) maintain devotion to duty and made himself liable for the charge. Thus said Sri Swapan Ch. Deb Roy, RPS (Panchayat Secretary), Hrishyamukh RD Block has violated the provision of Rule-3 of the Tripura Civil Services (Conduct) Rules, 1988 and has made himself liable for disciplinary action under CCS (CC&A) Rules, 1965.

The list of documents by which articles of charges were to be proved is also enumerated hereunder:

“ANNEXURE-III

**LIST OF DOCUMENTS BY WHICH ARTICLES OF CHARGE
FRAMED AGAINST SRI SWAPAN CHANDRA DEB ROY, RPS
(Panchayat Secretary) MANIRAMPUR VILLAGE COMMITTEE
HRISHYAMUKH RD BLOCK, SOUTH TRIPURA DISTRICT ARE
PROPOSED TO BE SUSTAINED.**

1. BDO, Hrishyamukh letter. F.1(1-A)BDO/HRM/CONFIDENTIAL/2011-12/238, DATED 04.05.2012;
2. Tripura Gramin Bank, letter No.TGB/HRM/BDO/194/2012/HD, dated 04.05.2012
3. Copy of Tripura Gramin Bank, Cheque bearing No.884296, dated 11.04.2012
4. Report of the inquiry team dated 04.05.2012
5. Copy of Sanction Memo No. (i) No.F.21(5)/BDO/HRM/MREGA/BUDGET/2011-6. Copy of 12/145, dated 20.04.2011, Rs.3,44,560/- (ii) No.F.21(5)/BDO/HRM/MREGA/BUDGET/2011-12/715, DATED 23.06.2011, Rs.7,00,000/- (iii) No.F.21(5)/BDO/HRM/MREGA/BUDGET/2011-12/1456, DATED 19.08.2011, Rs.3,00,000/- (iv) No.F.21(5)/BDO/HRM/MREGA/BUDGET/2011-12/2084, Dated 22.10.2011, Rs.7,00,000/-, (v) No.F.21(5)/BDO/HRM/MREGA/BUDGET/2011-12/2787, dated 08.12.2011, Rs.3,00,000/- & (vi) No. F.21(5)/BDO/HRM/MREGA/BUDGET/2011-2/3225, dated 17.01.2012, Rs.100,000/-
6. Counterfoil of Check No.156360, dated 07.07.2011 (ii) No.156369 dated 16.09.2011, (iii) No.156372 dated 10.10.2011 (iv) No.884277 dated 10.11.2011 (v) No.884279 dated 26.11.2011, (vi) No.884282 dated 14.12.2011 (vii) No.884284 dated 23.12.2011, (viii) No.884285 dated 28.12.2011, (ix) No.884288 dated 13.11.2012 (x) No.884292 dated 16.03.2012.
7. Copy of Joint Account T.G.B Pass Book bearing No.15242 of MGNREGA scheme
8. Transfer order vide Memo No.F.4(2)/BDO/HRM/Panch/2011-12/3984, dated 22.03.2012
9. Written statement dated 10.04.2012, submitted by Sri Dulal Nama, Present RPS, (P/S) Manirampur Village Committee;”

The list of witnesses through whom the proposed charges were to be sustained is also enumerated hereunder:

“LIST OF WITNESS BY WHOM THE ARTICLES OF CHARGES FRAMED AGAINST SRI SWAPAN CHANDRA DEB ROY, MANIRAMPUR VILLAGE COMMITTEE UNDER HRISHYAMUKH RD BLOCK, SOUTH TRIPURA DISTRICT, ARE PROPOSED TO BE SUSTAINED.

1. Sri Keshab Kar, BDO, Hrishyamukh RD Block.
2. Sri Sankar Debnath, A.A.O, Hrishyamukh RD Block.
3. Sri Amarchand Biswas, Panchayat Extension Officer, Hrishyamukh RD Block.
4. Manoranjan Debnath, Panchayat Extension Officer, Hrishyamukh RD Block.
5. Rasjesh Debnath, J/E, Hrishyamukh RD Block.
6. Sri Dulal Nama, Present RPS, (P/S) Manirampur Village Committee;
7. Sri Parameswar Sarkar, Pradhan, Manirampur Village Committee.”

7. The departmental proceeding is underway and has not yet been concluded. Appellant was acquitted of the charge of criminal misappropriation of a sum of Rs.3,41,780/- from the joint account of Tripura Gramin Bank, Hrishyamukh Branch No.15242 by judgment dated 18.05.2022 passed by learned Judicial Magistrate, First Class, South Tripura, Belonia in PRC (WP) No.184 of 2012. On account of his acquittal in the criminal case, appellant sought quashing of the disciplinary proceeding initiated vide memorandum of charges dated 21.09.2012.

8. The learned Writ Court by the impugned order, instead of quashing of the charges, directed completion of the disciplinary proceeding within a period of 4(four) months with which the writ petitioner/appellant herein, being aggrieved, is before us.

9. Mr. S. Deb, learned senior counsel for the petitioner/appellant herein, has drawn the attention of this Court to the following decisions in support of his submissions:

(a) Paragraph 7 in the case of ***Hindustan Petroleum Corporation Ltd. and others v. Sarvesh Berry*** reported in (2005) 10 SCC 471.

(b) Paragraphs 24, 25 & 27 of the judgment dated 04.12.2023 in the case of ***Ram Lal v. State of Rajasthan & others*** in ***Civil Appeal No.7935 of 2023 arising out of SLP(C) No.33423 of 2018***.

It is submitted that since the acquittal in the criminal trial is on the same set of charges for which the petitioner/appellant herein is facing departmental proceeding based on same set of facts and the evidence in both the proceedings are common, the continuance of the departmental proceeding after acquittal of the appellant would lead to miscarriage of justice. It is further submitted that though the position in law as regards simultaneous proceedings in criminal case and departmental proceedings are well settled, but in case the departmental proceedings are on same set of facts, evidence and charges, the memorandum of charges deserves to be quashed. Therefore, the impugned order may be set aside and the articles of charges initiated vide memorandum of charges dated 21.09.2012 may be quashed.

10. Mr. Deb, learned senior counsel for the appellant, has also pointed out from the judgment of acquittal that the appellant was acquitted not on the basis of benefit of doubt, rather the prosecution had failed to prove that the accused appellant was entrusted with the joint account and the said money was misappropriated by the accused person himself. As such, following the ratio rendered by the Apex Court in the case of ***Ram Lal v. State of Rajasthan & others***, this Court, on a scrutiny of the material charges in the departmental

proceeding and on perusal of the entirety of the judgment of acquittal, may deem it proper to quash the entire disciplinary proceeding itself.

11. Mr. D. Sarma, learned Additional Government Advocate for the respondents-State, has opposed the prayer. He submits that the departmental proceedings are not on identical charges. While the criminal trial was based on the allegations of criminal breach of trust by withdrawal of Rs.3,41,780/- from the joint account of Tripura Gramin Bank, Hrishyamukh Branch No.15242 by the petitioner/appellant herein, who was a Panchayat Secretary of Manirampur village committee under Hrishyamukh R.D block; but the disciplinary proceedings have been initiated on several charges which include failure to maintain absolute integrity and devotion to duty in breach of the Tripura Civil Services (Conduct) Rules, 1988 and also commission of irregularities in maintaining the guidelines under MGNREGA scheme by showing false name of labourers, self drawl cheque against development works of MGNREGA scheme with an ill motive to misappropriate government money.

12. Mr. Sarma, learned Additional Government Advocate, further submits that a bare perusal of the articles of charges would show that the petitioner/appellant herein has been proceeded against not only for criminal breach of trust or misappropriation of government money, but for his failure to perform his duties in maintaining the official records as per guidelines of the MGNREGA scheme. The lists of witnesses are also not same. Moreover, the list of documents proposed to be adduced in support of the charges also referred to a wide spectrum of records which appellant in the capacity of Panchayat Secretary of Manirampur village committee was required to follow and observe

as per MGNREGA guidelines. Therefore, the principle of law, laid down by the Apex Court when applied to the case at hand, does not call for quashing of the entire disciplinary proceeding. The standard of proof in both the criminal trial and the departmental proceeding are also not same. As such, the learned Writ Court rightly directed the disciplinary proceeding to be completed within a period of 4(four) months, as the petitioner/appellant herein had already retired and was not getting any pensionary benefits.

13. We have considered the submission of learned counsel for the parties. We have also scrutinized the records relating to the departmental proceeding as extracted hereinabove in substance and also gone through the judgment of acquittal rendered by the learned Trial Court.

We are conscious of the fact that the criminal trial proceeded against the petitioner/appellant herein on allegations of criminal breach of trust for withdrawal of Rs.3,41,780/- from the joint account of Tripura Gramin Bank, Hrishyamukh Branch No.15242 by the appellant while he was a Panchayat Secretary at the Manirampur village committee under Hrishyamukh R.D block.

The prosecution adduced the following witnesses in support of the case:

“5] In order to prove the case, the prosecution examined altogether 06(six) witnesses:

Pw-1	Sri Keshab Kar,
Pw-2,	Sri Manoranjan Debbarma
Pw-3,	Sri Amarchand Biswas,
Pw-4,	Sri Haripada Debnath,
Pw-5,	Sri Swapan Bhowmik, and
Pw-6,	Insp. Bimal Baidya”

14. At this instance, it is pertinent to point out that the witnesses proposed to be adduced in the departmental proceedings are seven in number and only three of them are common to the criminal trial namely Sri Keshab Kar, Sri Amarchand Biswas and Sri Manoranjan Debnath. Comparison of the

charges framed during the criminal trial with those under five articles of charges in the disciplinary proceeding do lead to a clear impression that the disciplinary proceeding, though also related to allegations of misappropriation of about Rs.3,93,665/- from the MGNREGA account in lieu of execution of certain works, but the charges also show that petitioner/appellant herein, as a Panchayat Secretary, had committed irregularities in maintaining the guidelines under MGNREGA scheme and failed to produce work orders for two number of development works, muster roll, bank scroll, etc. and also did not submit any adjustment against the said two number of works as evident from Article No.II of the charges.

15. Appellant also took over all the papers/documents, etc. of the village committee without handing it over to his successor for the period 01.04.2011 to 31.03.2012 and thereby committed gross irregularities in handing over of charge of the Manirampur village committee to his successor which was not desirable. This led to serious problems. As such, he failed to maintain absolute integrity and complete devotion to duty and made himself liable for official misconduct under Rule 3 of the Tripura Civil Services (Conduct) Rules, 1988 for being proceeded departmentally under CCS (CC&A) Rules, 1965. Acquittal in a criminal trial for the charges of criminal breach of trust, therefore, would not amount to exoneration in the disciplinary proceedings which relates to charges of official misconduct apart from allegations of criminal misappropriation of MGNREGA funds. As such, it cannot be said that the departmental proceedings and criminal case are based on same set of allegations/charges and the evidence in both the proceedings are also common.

16. Following the ratio rendered by the Apex Court at paragraph 7 in the case of ***Hindustan Petroleum Corporation Ltd. and others*** (supra) and also the opinion of the Apex Court in the case of ***Ram Lal*** (supra), this Court is of the considered view that the acquittal of the petitioner/appellant herein in criminal trial does not *ipso facto* entail exoneration in the departmental proceeding. The case of ***Ram Lal*** related to allegation of altering of date of birth of the appellant from 21.04.1974 to 21.04.1972 in his 8th standard marksheet to project himself as having attained majority at the time of the recruitment. The present case is one where a government official, holding the post of Panchayat Secretary and entrusted with the task of execution of MGNREGA works in the entire panchayat in the concerned block, has been alleged to have failed in maintaining official records and following guidelines under the MGNREGA scheme, which led to illegal withdrawal of certain MGNREGA funds. Appellant has also been alleged to have shown lack of integrity and absolute devotion to duty, and further failed to hand over custody of all papers/documents of the Manirampur village committee.

17. Considered thus, we are of the view that the prayer of the petitioner/appellant herein for quashing of the memorandum of charges dated 21.09.2012 on the strength of his acquittal in a criminal case does not merit acceptance. The disciplinary proceeding is said to be underway. The direction of the learned Writ Court to conclude the departmental proceedings should be carried out by the respondents in right earnest.

18. The instant appeal is accordingly dismissed. Pending application(s), if any, shall stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

SIDDHARTHA
LODH

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